

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

VICTORIA DIVISION

United States Courts
Southern District of Texas
FILED

AUG 05 2020

David J. Bradley
Clerk of Court

UNITED STATES OF AMERICA

v.

JOSE J. SOTO

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CRIMINAL NO. V-18-145S(1)

STIPULATION OF FACTS

The defendant, JOSE J. SOTO, and Scot McCrum, the defendant's counsel have agreed to stipulate with the United States Attorney for the Southern District of Texas, Ryan K. Patrick, through the undersigned Assistant United States Attorney, to the following facts. The parties agree that these facts are sufficient to establish a factual basis for the defendant's plea, pursuant to Fed. R. Crim. P. 11(b) (3).

I.

The defendant confesses that within the Southern District of Texas beginning on or about November 1, 2017 and continuing through December, 2018.

Count One – Did fraudulently and knowingly export, or attempt to export firearms and ammunition, or knowingly receive, conceal, buy or sell in a manner that facilitated the transportation, concealment, or sale of such weapons prior to exportation, knowing the same to be intended for exportation from the United States to Mexico, contrary to any law or regulation of the U.S.; 18 U.S.C. 554 and 2

- 1) That the defendant did fraudulently and knowingly export, or attempt to export firearms and ammunition, or knowingly receive, conceal, buy or sell in a manner that facilitated the transportation, concealment, or sale of such weapons from the United States to Mexico; and

- 2) This exportation is contrary to any law or regulation of the United States.

Count Two - Conspiracy to Commit Offense against the United States and to defraud the United States 18 U.S.C. 371 and 554(a).

- 1) That two or more persons, directly or indirectly, reached an agreement to defraud the United States
- 2) That the defendant knew of the unlawful agreement, and
- 3) That the defendant joined in the agreement willfully, that is, with the intent to further its unlawful purpose of fraudulently and knowingly exporting or attempting to export from United States defense articles.

Count Three - It is unlawful for any person except a licensed importer, licensed manufacturer, manufacturing, or dealing in firearms, or in the courts of such business to ship, transport, or received any firearm in interstate commerce. 18 U.S.C. 922(a)(1)(A), 923(a) and 924(a)(1)(D) and 2.

- 1) That the defendant was a person engaged in the business of selling firearms at wholesale or retail during the time period of this indictment;
- 2) That the defendant engaged in such business without a license issued under federal law;
- 3) That the defendant did so willfully, that is, that the defendant was dealing in firearms with knowledge that his conduct was unlawful

Count Four - Did willfully, fraudulently, and knowingly export and send from the United States or attempt to export and send from the United States, any merchandise, article, or object to a Lewis Machine & Tool Co. (LMT), 40mm Grenade Launcher with obliterated serial number, contrary to Title 22, USC, 2778(b)(2) and (c) and Title 22, Code of Federal Regulations, Sections 121.1, 123.1, 127.1, and 127.3, a law and regulation and regulation of the United States. 18 U.S.C. 554(a) and 2.

- 1) That the defendant did fraudulently and knowingly export, or attempt to export firearms and ammunition, or knowingly receive, conceal, buy or sell in a manner that facilitated the transportation, concealment, or sale of such weapons from the United States to Mexico; and
- 2) This exportation is contrary to any law or regulation of the United States.

Count Five – Did knowingly possess a firearm, namely a Lewis Machine & Tool Co. (LMT), 40mm Grenade Launcher with obliterated serial number. This firearm was required to be registered and was not in fact registered to the defendant in the National Firearms Registration and Transfer Record. 26 U.S.C. 5841, 5861(d), and 5871.

- 1) That the defendant knowingly possessed an NFA firearm;; and;
- 2) That the firearm was a Lewis Machine and Tool Co. (LMT), 40mm Grenade Launcher;
- 3) That the defendant knew of the characteristic of the firearm, that is, that it was a Lewis Machine and Tool Co. (LMT), 40mm Grenade Launcher;
- 4) That the firearm was (could readily have been put) in operating condition;
- 5) That the firearm was not registered to the Defendant in the National Firearms Registration and Transfer Record. It does not matter whether the Defendant knew that the firearm was not registered or had to be registered.

II.

The defendant further stipulates that had the case proceeded to trial the United States would have called credible witnesses who would have testified that:

August 24, 2018, Brian Gene MORRIS purchased fourteen (14) RAS47 rifles. On this date, agents conducted a consensual search of MORRIS residence. MORRIS admits to agents he is no longer in possession of the (14) AK 47 rifles. He also purchased .50 caliber rifles as well (which are also no longer in his possession); and to building rifles to avoid multiple sale purchase forms being shared with law enforcement. During this search, agents discovered and seized:

- (5) five Colt M4 .223 caliber rifles,
- (13) thirteen AR lower receivers,
- (10) ten AR style lower receivers "milled" out from unfinished lowers (ghost guns) and (2) two AR style lower receivers "milled" out from unfinished lowers with auto sear pin/holes (for full-auto capability).

A Federal Search Warrant of MORRIS' cellphone is executed. Data exploitation identify Derek QUINTANILLA, Alex BAUTISTA, and Jose Joaquin SOTO are all involved in a gun smuggling organization providing firearms to the Cartel Del Noreste (CDN) in Nuevo Laredo, Tamaulipas, Mexico.

October 2018, a Federal Search Warrant is executed at MORRIS' residence. MORRIS is interviewed and cooperates. He fully identifies QUINTANILLA, BAUTISTA, SOTO, and a Samuel CARDENAS. He further tells agents that he has purchased over 200 firearms for SOTO's gun smuggling organization and knowing they were being provided to the CDN in Mexico.

November 12, 2018, SOTO has purchased 1,000 magazines to be delivered on the next day, November 13, 2018. After receiving the shipment, agents followed SOTO driving his GMC Yukon, from his residence in San Antonio to a "stash" house in Laredo, Texas, identified as 1113 Aldama, Laredo, TX. Record checks with the Webb County Appraisal District revealed this location to be owned by SOTO.

Aerial surveillance at 1113 Aldama, Laredo, TX showed SOTO and others unload several boxes into the 1113 Aldama location and depart in a white car that was already at the 1113 Aldama. SOTO was observed driving this vehicle with others accompanying him in Laredo and return to the 1113 Aldama location a short time later. Agents then observed SOTO and others depart the 1113 Aldama location in the GMC Yukon. Surveillance was maintained at 1113 Aldama, and agents observed a Ford Escape arrive to this location shortly after. Agents observed an unidentified individual load several items into the Ford Escape and depart the 1113 Aldama location. This was around 2:00 am on November 14.

The Ford Escape drove to a neighborhood close to a U.S. POE in Laredo, TX, parked on the side of the street, and the driver left the vehicle unattended. Surveillance units were in the area attempting to locate the unidentified driver of the Ford Escape. As agents continued surveillance of the Ford Escape, agents witnessed three males running from the Ford Escape with items in their hands. Simultaneously during this surveillance, a resident of the neighborhood called 911 to report three guys who were breaking into vehicles on the street and had attempted to break into her house. Surveillance units found the Ford Escape parked and the back window had been smashed. Laredo PD arrived to speak with the neighbor who told law enforcement that three suspects had ran into a home close by and it appeared they were carrying firearms. Laredo

PD, along with HSI, made contact with the second homeowner who was wheelchair bound. This person authorized law enforcement into his home to search for the three suspects. The 3 subjects were subsequently found hiding in one of the closets with five (5) AR15s they had stolen from the Ford Escape. Agents approached the Ford Escape and observed a window had been broken and agents and Laredo PD officers observed ammunition in some of the boxes located in the Ford Escape. The three individuals, the five (5) rifles, and the Ford Escape were all taken to the Laredo Police Department by Laredo Police. Additional items seized from the Ford Escape include

- 25 pistols
- 10,143 rounds of .223 caliber ammunition
- 10,097 rounds of 7.62 caliber ammunition
- 21 - 45 caliber magazines
- 12 - 40 caliber magazines
- 42 - 9mm magazines
- 4 Kevlar vests
- 15 ballistic helmets
- 15 various holsters
- 2 vest carriers

November 15, 2018- HSI Laredo had continued watching the stash house, and on November 15, 2018, agents executed a Federal Search warrant at this location. During this search, agents discovered and seized 13 firearms, thousands of rounds of AR/AK style ammunition, 50 ballistic plates, 65 rifle magazines, one 40mm grenade launcher, and 9 boxes of magazines that contained the 1,000 magazines. The shipping labels on these boxes contained

SOTO's name and residence in San Antonio. The following is a detailed breakdown of the items seized from November 15, 2018 search warrant executed at 1113 Aldama:

- 50 cal Barrett Rifle
- LMT 40mm Grenade Launcher
- 6 pistols
- 1 Anderson Manufacturing AM-15 rifle
- 6 AR Type Lower Receivers
- 7 AR Type Complete Upper Receivers
- a single IED looking device (turned over to Laredo Bomb Squad and determined to be non lethal)
- 1,015 - 45 caliber ammunition
- 399 - 9mm caliber ammunition
- 5,887 - 7.62 caliber ammunition
- 2,554 - .223 caliber ammunition
- 366 - .223/5.56 caliber magazines
- 252 - 7.62 caliber magazines
- 7 - 9mm magazines
- 7 - 45 caliber magazines
- 2 - 50 caliber magazines
- 50 ballistic plates
- tactical gear
- significant amount of weapon parts
- 9 magazine boxes with SOTOs name and San Antonio address containing the 1,000 magazines
- miscellaneous pieces of SOTOs identifiable property

On March 8, 2019, ATF Firearms Enforcement Officer Eisenbise, provided agents with a Firearms Technology Criminal Branch Report of Technical Examination for the Lewis Machine & Tool Co. 40mm grenade launcher that was seized on November 15, 2018, from SOTO's property listed above in Laredo, Texas. FEO Eisenbise determined the LMT 40mm grenade launcher to be a destructive device with an obliterated serial number, violations of 26 U.S.C. 5861(d) & 5861(g). A fingerprint examination of the LMT 40mm grenade launcher revealed Jose SOTO's fingerprint.

On November 30, 2018, HSI San Antonio was notified by a FFL that SOTO had ordered another 1,000 magazines to be delivered to SOTO's San Antonio residence, identified as 6139 Diego Lane, San Antonio, TX. Agents conducted surveillance of SOTO's residence and observed SOTO receive the order of magazines, accompanied by Samuel CARDENAS. As agents observed this delivery, CBP Air notified agents that pilots observed a large pallet of ammo inside SOTO's garage. Agents conducted surveillance of SOTO and CARDENAS as they loaded up these boxes into SOTO's GMC Sierra. Agents followed SOTO and CARDENAS in the GMC Sierra to A-AAA Key Mini Storage located at 11707 Culebra Rd, San Antonio, Texas.

SA then observed SOTO and CARDENAS return to SOTO's residence and enter SOTO's residence. During this time, HSI San Antonio served a subpoena to A-AAA Key Mini Storage and learned SOTO is the tenant for storage unit 5007. Agents then observed SOTO and the male, depart SOTO's residence again in SOTO's GMC Sierra and arrive to the A-AAA Key Mini Storage. Customs and Border Protection (CBP) Air and Marine Operations (AMO) observed SOTO and the other male, arrive to the same storage unit and load more boxes into the bed of the GMC Sierra. As SOTO and his occupant departed the storage facility, SAs observed CARDENAS throw multiple thirteen gallon size bags into the dumpster at the A-AAA Key Mini Storage. SOTO's Sierra departed the storage facility and agents returned to the AAA Key Mini Storage and retrieved 8 trash bags containing empty boxes of .223 and 7.62 ammo boxes.

SOTO's Sierra returned to SOTO's residence and SAs observed SOTO and CARDENAS load boxes of ammo into SOTO's GMC Sierra. Agents observed SOTO and CARDENAS were retrieving the ammo boxes from SOTO's garage. Agents then observed SOTO, CARDENAS, and other occupants depart San Antonio in SOTO's Sierra and drive to Laredo, Texas.

HSI San Antonio and HSI Laredo observed SOTO arrive to Budget Self Storage located at 5906 San Bernardo Ave, Laredo, TX. SAs observed SOTO and his occupants unload the boxes from SOTO's Sierra and take them inside storage #121. Agents followed SOTO after he departed Budget Self Storage and SOTO arrived at Wal-Mart off IH-35.

SAs then observed two vehicles, a tan Chevrolet Suburban displaying Mexican License Plates 944-TRD-1 and a blue Ford Fusion displaying TX LP JXF-8318, arrive to unit #121 of the Budget Self Storage, the same unit SOTO had arrived to earlier. SAs observed boxes being loaded into the Suburban and the Fusion. SAs conducted surveillance on the Suburban and Fusion as they departed the Budget Self Storage facility. SAs observed these vehicles drive in different directions and then reunite at a McDonalds located at 1120 Santa Ursula Ave, Laredo, TX. SAs then observed a third vehicle, a silver Chrysler 200, displaying temporary license plate 175142H, arrive to the McDonalds and meet up with the Suburban and Fusion.

The Fusion departed and was followed to a nearby gas station. The Suburban and Chrysler 200 remained at the McDonalds. Laredo Police Department and SAs approached the vehicles simultaneously and identified the drivers.

Gina GIBEAUT-Morales, a United States Citizen and the driver of the Ford Fusion, granted consent to Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) SAs to search the vehicle. SAs discovered multiple boxes of loose ammunition in the truck of the car. Juan Jose GARCIA-Cruz, a Mexican National and the driver of the Suburban, granted consent to HSI SAs, to search the Suburban. SAs discovered multiple boxes of loose ammunition, garbage bags with magazines, and a garbage bag with ballistic helmets inside the cargo area of the Suburban. She told agents she was paid to take articles into Mexico and it was her second trip. Hector Hugo

OLIVAS, a United States Citizen and the driver of the Chrysler 200, granted consent to HSI SAs, to search the Chrysler 200. SAs did not discover anything and OLIVAS claimed to have been in the area to eat and did not know GARCIA-Cruz. GARCIA-Cruz stated he was waiting for instructions from OLIVAS, as to when to cross the vehicles into Mexico. GARCIA-CRUZ said he owed a debt to the Cartel and was working.

Approximately 18,096 rounds of .223 and 9,981 rounds of 7.62 were discovered inside the boxes found in the trunk of the Fusion.

Approximately 500 rounds of 50 caliber, 2,004 rounds of .223, 500 AK magazines and 500 AR magazines and 20 ballistic helmets were discovered inside the suburban.

At this McDonalds, while agents were searching the Suburban, agents observed SOTO's GMC Sierra arrive to the same McDonalds and park near the scene. Laredo Police Officers approached SOTO's GMC Sierra and identified the occupants as SOTO, CARDENAS, and MX National, Fernando SANCHEZ-Ortiz. Agents then discovered from Budget Self Storage that SANCHEZ-Ortiz was the tenant of storage unit #121

Samuel CARDENAS would testify that he was SOTO's friend. That he began purchasing guns for SOTO in 2015. He had purchased guns, ammunition and magazines for SOTO. He stated that SOTO said he (SOTO) purchase the grenade launcher. He knew these items were going to Mexico because he went with SOTO to Mexico. He knew because he met with members of CDN when they would deliver bulk currency as payment for SOTO. SOTO told MORRIS, QUINTALNILLA, BAUTISTA, and CARDENAS that serial numbers would be removed from the guns that were purchased. He would testify that Soto asked him to take the blame so that nothing would happen to SOTO'S family in Mexico.

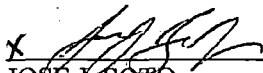
Alex BAUTISTA would testify he purchased between twenty (20) and forty (40) firearms for SOTO. He worked with MORRIS and QUINTALNILLA to purchase with firearms. He picked up 10,000 rounds of ammunition from Houston for SOTO and he did this at least eight

times. He knew the firearms and ammunition were going to Mexico because he would escort SOTO on trips to Laredo during the time period of the Conspiracy.


Derek QUINTANILLA would testify that he admired JOSE SOTO because he was prior military. He would testify that he purchased many weapons for SOTO. He would get others to purchase weapons for SOTO. He would testify that he knew weapons and ammunition, and other equipment were going to the CARTEL in Mexico. Neither Jose SOTO, Derick QUINANITLLA, Samuel CARDENAS, Brian MORRIS, nor Alex BAUTISTA were FFLS during this time of the conspiracy or over before.

Further Jose SOTO was not an FFL and he knew that it was contrary to law to export these weapons.

The undersigned have thoroughly reviewed, understand, and agree that the information contained in this Stipulation of Fact is true and correct.

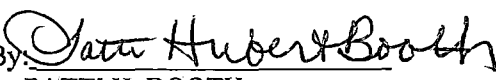
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JOSE J. SOTO
Defendant

7/23/20
Date


Attorney for Defendant

7/23/20
Date

RYAN K. PATRICK
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By: 
PATTI H. BOOTH
Assistant United States Attorney